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Bi-Weekly Report on War Crimes Trials Monitoring

Court's judgement favourable to family members of the persons killed in Varivode

At the Municipal Court in Knin, a judgment was passed on 23 January 2013 according to which the Republic of Croatia must pay damages in amount of 540,000.00 KN to Jovan Berić and his sisters Branka Kovač and Nevenka Stipišić, whose parents Radivoje Berić and Marija Berić had been killed in the village of Varivode at the end of September 1995, more than 45 days after the completion of the “Storm” Military Operation.

Initially, the courts in Knin and Šibenik rejected the claims for restitution the plaintiffs had lodged in 2006. However, in January 2012, the Supreme Court of the Republic of Croatia had quashed the judgements passed by the lower instance courts and remanded the case for retrial. In the explanation of the Supreme Court's ruling, it was stated that the father and mother of the plaintiffs had been killed by firearms shots in the courtyard of their family home, that another 9 elderly persons of Serb ethnicity had been killed in the village on the same day the plaintiffs' parents had been killed, that the case represented a terrorist act with an aim of causing fear, terror and insecurity among civilians, for which act the Republic of Croatia was held accountable and that the obligation of paying the damage restitution did exist regardless of the fact whether the perpetrator of the crime himself had been convicted or not.

The courts have finally recognised the accountability of the Republic of Croatia for non-punishment of perpetrators of the cruel killings in Varivode. This judgement has brought, at least, a partial satisfaction to family members of the killed persons, and it has been restoring citizens' trust in the Croatian judicial system.



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In these proceedings, the plaintiffs have succeeded in winning the case since they filed a complaint within the general limitation period. Unlike them, numerous other plaintiffs, whose relatives had been killed, lodged complaints after the expiration of the limitation period and it is very likely that their claims would be rejected. However, it is necessary in these cases to exempt plaintiffs from paying court fees (or write off the plaintiffs' debts) since the fees should not have been incurred in the first place - the courts should have established the fact that limitation period had taken effect and should have concluded the case as early as the first court hearing instead of further prolonging the proceedings, accumulating the costs and subsequently rejecting the lodged complaints on the basis of the limitation in law.

Resumption of the court hearings in the case of crime in Grubori

The proceedings held at the Zagreb County Court against Frano Drlje and Božo Krajina have resumed with the testimonies being given by the former members of the "Lučko" Anti-Terrorist Unit (ATJ). Frano Drlje and Božo Krajina were charged with the crime committed on 25 August 1995 when six elderly civilians of Serb ethnicity had been executed in the village of Grubori, in the vicinity of Knin, during the action of the terrain search which followed the Military Operation "Storm", at the time when the "Freedom Train" passed through the area.

Six witnesses heard at the court hearing on 21 January 2013 stated that they knew nothing about the killing of civilians – most of them had heard from the media about the incriminations attributed to their former fellow soldiers, they did not know who the person in charge of the action was nor did they know the names of their immediate superior officials during the action.

The following day, on 22 January 2013, Željko Sačić, the Special Police Deputy Commander at the time of the stated event (while Mladen Markač was the Special Police Commander), gave his testimony stating that his opinion on the situation in Grubori was that there had been an exchange of fire between Croatian units and the remaining Serb paramilitary troops in the area. Sačić stated that Josip Čelić, one of the commanders of the Special Police, had written a false report on the events in Grubori and deserted the unit after the shooting in Grubori commenced. Sačić also stated that he had heard about the names of persons who had killed the civilians and that he could not reveal the names since he had no evidence to support the statement. Additionally, Sačić has been currently under investigation for the crime in Grubori and the crime in Ramljani which occurred one day after the crime in Grubori.

The trial in this case has been held in the premises which are inadequate and too small to accommodate all interested public which led to a situation when all excess public had to leave the courtroom. In this way our monitors were prevented from doing their regular task – continuous monitoring of all court proceedings - in the critical moment when one of the key witnesses was testifying.

The Medak Pocket proceedings merged

Cases against Josip Krmpotić and Velibor Šolaja, charged with the crimes committed during the Croatian Military Operation "Pocket 93", will be merged again.

The Zagreb County State Attorney's Office issued the indictment against the above stated persons on 31 August 2012. However, following an objection to the indictment, the Zagreb County Court brought the decision that the indictment in respect of the accused Krmpotić was to be sent back to the Zagreb County State Attorney's Office for amending. The proceedings were separated and the trial against the accused Šolaja was supposed to commence on 15 January 2013.

However, the trial was postponed since the indictment against Krmpotić also became legally valid in the meantime so the accused persons would be tried in the joint proceedings.

The above stated proceedings represent a continuation of criminal prosecution in the so-called Medak Pocket case, in which Mirko Norac was sentenced to 6 years of imprisonment in 2009 whereas Rahim Ademi was acquitted of all charges. The case against Ademi and Norac is the only case which the ICTY Office of the Prosecutor transferred to the Croatian judiciary after issuing the indictment.

Since 2009, when the verdict against Ademi and Norac became final, the State Attorney's Office of the Republic of Croatia was conducting enquiries for the purpose of identifying direct perpetrators of crimes as well as the persons bearing the command responsibility. In March 2012, five persons were arrested on suspicion of commission of the crimes - out of those five persons, Krmpotić and Šolaja were kept in custody, and have remained there, while other three persons were soon released. The persons on top positions in the chain of command have remained untouched.

Charges against Krmpotić, in his capacity of the 9th Guards Brigade Reconnaissance Company Commander, have included his issuing of orders to his subordinates to burn the houses owned by Serbs and to execute captured Serb soldiers, while Šolaja has been charged with execution of one elderly female person.